**(1996) 09 SC CK 0126**

**In the Supreme Court Of India**

**Case No :** Civil Appeal Nos. 10440-10441 of 1995

Collector of Central Excise, Allahabad — APPELLANT

Vs

Rattan Micro Nutrient (P) Ltd. — RESPONDENT

**Date of Decision :** 20-09-1996

**Acts Referred:**

**Citation :** (1996) 87 ELT 334 : (1997) 10 SCC 473

**Hon'ble Judges :** K. Venkataswami, J;B.P. Jeevan Reddy, J

**Bench :** Division Bench

**Final Decision :** Refer Full Bench

## Judgement

B.P. Jeevan Reddy and K. Venkataswami, JJ.—Under Notification No. 224 dated 23-6-1988, unwrought zinc is exempt from duty when it is manufactured from zinc dross, zinc ash or residues thereof "on which the duty of excise leviable under the said Schedule, or the additional duty leviable under the Customs Tariff Act, 1975, as the case may be, has already been paid".

2. It appears that by an earlier Notification No. 19/88, dated 1-3-1988, goods falling within Chapter 26 of the Schedule to the Central Excise Tariff Act, 1985 were exempted from the whole of the duty. The learned Counsel for the respondent says that zinc ash falls within Chapter 26 and he appears to be right.

3. In this case, the respondent manufactured unwrought zinc from zinc ash which enjoyed exemption from duty by virtue of Notification No. 19/88. The question is whether the respondent is entitled to the benefit of Notification No. 224/88. In other words, can it be said in this case that the unwrought zinc manufactured by the respondent has been manufactured out of zinc ash on which duty of excise has already been paid?

4. It is brought to our notice by Mr. Gauri Shankar Murty, learned Counsel for the appellant-Revenue that a matter involving a similar question has been directed to be placed before a larger Bench of at least three Judges vide order dated 10-3-1995 in Civil Appeal No. 2390 of 1989 made by a Bench of which one of us

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(Hon'ble Mr. Justice K. Venkataswami) was a member. Accordingly these matters may also be heard by a three-Judge Bench. Tag these appeals with the aforesaid civil appeal.

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